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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,008	01/04/2002	Mark Linus Bauman	ROC920010193US2	6602
7590	02/10/2005			EXAMINER AVELLINO, JOSEPH E
Gero G. McClellan Moser, Patterson & Sheridan, L.L.P. Suite 1500 3040 Post Oak Boulevard Houston, TX 77056-6582			ART UNIT 2143	PAPER NUMBER
DATE MAILED: 02/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/038,008	BAUMAN ET AL.	
Examiner	Art Unit		
Joseph E. Avellino	2143		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 04 January 2002.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-29 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

1. Claims 1-29 are pending in this examination; claims 1, 9, and 20 independent.

### ***Specification***

2. The specification objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The background information and summary of the invention are not the same as of the parent application and therefore are considered new matter. Specifically the deletion of ¶ 5, p. 3 and ¶ 8, pp. 3-4 of the parent application and the addition of ¶ 8-10, pp. 4-5, of the child application. Applicant is reminded that a divisional is "carved out" of the original (parent) specification. See 35 USC 121.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 13-18, 20-22, 24-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (US 2003/0093629) (hereinafter Chen).

4. Referring to claim 1, Chen discloses a method of processing messages, comprising:  
receiving at a sockets layer of a computer (the term “sockets layer” is taken to mean “physical layer” of the computer) data from a remote source via a network connection prior to allocating a buffer to contain the data (p. 2, ¶ 15); and subsequently allocating the buffer to contain the data (p. 2, ¶ 15).
5. Referring to claim 2, Chen discloses the messages are client-server messages (it is inherent that the messages are client server messages since any sender is considered a server and any recipient is considered a client).
6. Referring to claim 3, Chen discloses the data is received over a sockets streaming protocol (i.e. receiving packets continuously) (p. 2, ¶ 18).
7. Referring to claim 4, Chen discloses sizing the buffer according to a size of the data (p. 2, ¶ 18).

8. Referring to claim 5, Chen discloses the allocating is performed in response to a buffer request from the sockets layer (p. 2, ¶ 15).

9. Referring to claim 6, Chen discloses the network connection is a TCP/IP connection (i.e. Ethernet port) (p. 2, ¶ 18).

10. Referring to claim 7, Chen discloses processing a buffer request from a sockets layer after receiving the data (p. 2, ¶ 15); and  
providing the buffer to the sockets layer (p. 2, ¶ 15).

11. Referring to claim 8, Chen discloses the buffer request specifies a size of the buffer equal to a size of the data (p. 2, ¶ 18).

12. Claims 9-11, 13-18, 20-22, 24-29 are rejected for similar reasons as stated above. Furthermore Chen discloses the allocation is performed by the sockets layer (p. 2, ¶ 15), the buffer is allocated from storage owned by the sockets server application (p. 2, ¶ 15-17), and calling back to the sockets server application with an instruction to allocate the buffer (p. 2, ¶ 15).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Glasser et al. (USPN 5,764,890) (hereinafter Glasser).

15. Referring to claim 12, Chen discloses the invention substantively as described in claim 9. Chen does not specifically state that the input operation is configured with a record definition specifying a data format of the data. In analogous art, Glasser discloses another method of processing messages wherein the input operation is configured with a record definition specifying a data format of the data (col. 12, line 60 to col. 13, line 9). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Glasser with Chen since Chen discloses the packet is received and enqueued by the queue controller, and is then

buffered into memory, however does not specify what size the Ethernet packet is. This would lead to one of ordinary skill in the art to determine negotiation handshaking methods thereby finding Glasser and it's efficient method of negotiating the maximum size of data packets (col. 12, lines 60-65).

16. Claim 23 is rejected for similar reasons as stated above.

17. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Fry et al. (USPN 4,467,411) (hereinafter Fry).

18. Referring to claim 19, Chen discloses the invention substantively as described in claim 9. Chen furthermore discloses receiving the data via the network connection and copying ht data into a previously allocated buffer (i.e. queue controller 24) provided to the sockets layer with the input operation (p. 2, ¶ 15). Chen does not disclose if the previously allocated buffer is not large enough to contain the data, requesting a large buffer sufficient to contain the data. Fry discloses another message processing system which if the previously allocated buffer is not large enough to contain the data, requesting a large buffer sufficient to contain the data (col. 22, lines 42-47). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Fry with Chen in order to provide improved asynchronous signal transfers between a buffer and a plurality of signal handling devices by allowing

scheduling of signal-handling device operations with respect to a managed buffer as supported by Fry (col. 3, lines 19-29).

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
20. Nair (US 2003/0217184) discloses allocating buffers shared among protocol layers in a protocol stack.
21. Sebastian (US 2002/0099838) discloses allocating receive buffers to accommodate retransmission scheme in wireless computer networks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA  
January 19, 2005

Will C. Vaughn  
Primary Examiner  
Art Unit 2143  
William C. Vaughn, Jr.